APPENDIX A

1.

The Air Carrier Amendment to the Railway Labor Act

The relevant provisions of the Air Carrier Amendment (49 Stat. 1189, 45 U.S.C. 181, *et seq.*), to the Railway Labor Act, are as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled*, That the Railway Labor Act, approved May 20, 1926, as amended, herein referred to as 'Title I', is hereby further amended by inserting after the enacting clause 'Title I' and by adding the following title II:

"'Title II

"'Section 201. All of the provisions of title I of this Act, except the provisions of section 3 thereof are extended to and shall cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service.

"'Section 202. The duties, requirements, penalties, benefits and privileges prescribed and established by the provisions of title I of this Act, except section 3 thereof, shall apply to said carriers by air and their employees in the same manner and to the same extent as though such carriers and their employees were specifically included within the definition of 'carrier' and 'employee', respectively in section 1 thereof.'".

2.

The Railway Labor Act, as amended

The relevant provisions of the Railway Labor Act, as amended (44 Stat. 577, 48 Stat. 926, 45 U.S.C. 151, *et seq.*) are as follows:

"Title I

"Definitions

"Section 1. When used in this Act and for the purpose of this Act—

"First. The term 'carrier' includes any express company, sleeping car company, carrier by railroad, subject to the Interstate Commerce Act, * * *

* * * * * *

"Fifth. The term 'employee' as used herein includes every person in the service of a carrier (subject to its continuing authority to supervise and direct the manner of rendition of his service) who performs any work defined as that of an employee or subordinate official in the orders of the Interstate Commerce Commission now in effect, and as the same may be amended or interpreted by orders hereafter entered by the Commission pursuant to the authority which is hereby conferred upon it to enter orders amending or interpreting such existing orders. * * *

* * * * *

"Section 2. * * *

"General Duties

* * * * *

"First. It shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes whether arising out of the application of such agreements or otherwise, in order to avoid any interruption to com-

merce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof.

"Second. All disputes between a carrier or carriers and its or their employees shall be considered, and, if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carrier or carriers and by the employees thereof interested in the dispute.

"Fourth. * * * The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this Act. * * *

* * * * *

"Sixth. In case of a dispute between a carrier or carriers and its or their employees, a rising out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, it shall be the duty of the designated representative or representatives of such carrier or carriers and of such employees, within ten days after the receipt of notice of a desire on the part of either party to confer in respect to such dispute, to specify a time and place at which such conference shall be held; * * *

"Seventh. No carrier, its officers, or agents shall change the rates of pay, rules, or working conditions of its employees, as a class as embodied in agreements except in the manner prescribed in such agreements or in section 6 of this Act.

* * * * *

"Ninth. If any dispute shall arise among a carrier's employees as to who are the representatives of such employees designated and authorized in accordance with the requirements of this Act, it shall be the duty of the Mediation Board upon request of either party to the dispute, to investigate such dispute and to certify to both

parties, in writing, within thirty days after the receipt of the invocation of its services, the name or names of the individuals or organizations that have been designated and authorized to represent the employees involved in the dispute, and certify the same to the carrier. Upon receipt of such certification the carrier shall treat with the representative so certified as the representative of the craft or class for the purposes of this Act. * * *"

3.

INTERSTATE COMMERCE ACT, AS AMENDED.

The relevant provisions of the Interstate Commerce Act, as amended (24 Stat. 379, 49 U.S.C. 1, *et seq.*) are as follows:

"Section 1. (1) The provisions of this Act shall apply to common carriers engaged in—

"(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

"(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by railroad or by water—

"From one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only insofar as such transportation or transmission takes places within the United States.

"(2) The provisions of this Act shall also apply to such transportation of passengers and property and transmission of intelligence, but only in so far as such transportation or transmission takes place within the United States, * * *"

4.

THE CIVIL AERONAUTICS ACT OF 1938

The relevant provisions of the Civil Aeronautics Act of 1938 (52 Stat. 977, 49 U.S.C. 401, *et seq.*) are as follows:

"Title IV

"Air Carrier Economic Regulation

"Certificate of Public Convenience and Necessity

"Certificate Required

"Section 401. (a) No air carrier shall engage in any air transportation unless there is in force a certificate issued by the Board authorizing such air carrier to engage in such transportation: * * *

* * * * *

"Terms, Conditions and Limitations

"(f) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require. A certificate issued under this section to engage in foreign air transportation shall, insofar as the operation is to take place without the United States, designate the terminal and intermediate points only insofar as the Board shall deem practicable, and

otherwise shall designate only the general route or routes to be followed. * * *

* * * * *

"Compliance With Labor Legislation

"(1) (1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (not including Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

"(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a Territory or possession of the United States, the minimum of which shall be not less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and copilots engaged in interstate air transportation within the continental United States (not including Alaska).

"(3) Nothing herein contained shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

"(4) It shall be a condition upon the holding of a certificate by any air carrier that such carrier shall comply with title II of the Railway Labor Act, as amended.

* * * * *

"Title V

"Nationality and Ownership of Aircraft

"Registration of Aircraft Nationality

"Section 501. (a) It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1107 of this Act) to operate or navigate within the United States any aircraft not eligible for registration: . . .

. . . . . .

"(c) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Administrator of Civil Aeronautics and the Administrator of Civil Aeronautics shall issue to the owner thereof a certificate of registration.

. . . . . .

"(f) Such certificate shall be conclusive evidence of naitonality for international purposes, but not in any proceeding under the laws of the United States. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be, in issue."

5.

FEDERAL AVIATION ACT OF 1958

The relevant provisions of the Federal Aviation Act of 1958 (72 Stat. 737, 49 U.S.C.A. 1301, *et seq.*) are as follows:

"Title IV

"Air Carrier Economic Regulation

"Certificate of Public Convenience and Necessity

"Certificate Required

"Section 401. (a) No air carrier shall engage in any air transportation unless there is in force a certificate issued

by the Board authorizing such air carrier to engage in such transportation.

* * * * *

"Terms, Conditions And Limitations

"(c) Each certificate issued under this section shall specify the terminal and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions and limitations as the public interest may require. A certificate issued under this section to engage in foreign air transportation shall, insofar as the operation is to take place without the United States, designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed. * * *

* * * * *

"Compliance With Labor Legislation

"(k) (1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (not including Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

"(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a Territory or possession of the United States, the minimum of which shall not be less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and

copilots engaged in interstate air transportation within the continental United States (not including Alaska).

"(3) Nothing herein contained shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

"(4) It shall be a condition upon the holding of a certificate by any carrier that such carrier shall comply with title II of the Railway Labor Act, as amended.

* * * * *

"Title V

"Nationality and Ownership of Aircraft

"Registration of Aircraft Nationality

"Section 501. (a) It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1108 of this Act) to operate or navigate within the United States any aircraft not eligible for registration: * * *

* * * * *

"(c) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Administrator and the Administrator shall issue to the owner thereof a certificate of registration.

* * * * *

"(f) Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the United States. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be, in issue."

6.

THE CHICAGO CONVENTION ON INTERNATIONAL CIVIL AVIATION OF 1944

The relevant provisions of the Chicago Convention on International Civil Aviation of 1944 (61 Stat. 1185) are, as follows:

"Article 17

"Aircraft have the nationality of the State in which they are registered."

APPENDIX B

(Judgment.)

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Courthouse in the City of New York, on the fourteenth day of December one thousand nine hundred and fifty-nine.

Present:

HON. CHARLES E. CLARK,
HON. STERRY R. WATERMAN,
HON. LEONARD P. MOORE,
Circuit Judges.

AIR LINE STEWARDS AND STEWARDESSES ASSOCIATION, INTERNATIONAL, an unincorporated labor organization, *Plaintiff-Appellant,*

v.

TRANS WORLD AIRLINES, INC., a corporation,
Defendant-Appellee.

Appeal from the United States District Court for the Southern District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York, and was argued by counsel.

On Consideration Whereof, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is affirmed, with costs to the appellee.

A. Daniel Fusaro
Clerk

APPENDIX C

(Opinion.)

United States Court of Appeals for the Second Circuit

No. 49—October Term, 1959

(Argued November 30, 1959 Decided December 14, 1959)

Docket No. 25652

Air Line Stewards and Stewardesses Association, International, an unincorporated labor organization, *Plaintiff-Appellant*,

v.

Trans World Airlines, Inc., a corporation, *Defendant-Appellee*.

Before:

Clark, Waterman and Moore, *Circuit Judges*.

Plaintiff appeals from the denial below of its motion for judgment on the pleadings and from the granting of defendant's motion for summary judgment, United States District Court for the Southern District of New York, Herlands, *J*. Affirmed.

Sturm and Perl, Leibik and Weyand (Alan F. Perl, Lee Leibik, Ruth Weyand, of counsel), *for Plaintiff-Appellant*.

Chadbourne, Parke, Whiteside & Wolff (Edward R. Neaher, of counsel), *for Defendant-Appellee*.

PER CURIAM:

Air Line Stewards and Stewardesses Association International is the certified bargaining representative for the purposes of the Railway Labor Act, as amended,[1] of the flight stewards and hostesses employed by Trans World Airlines, Inc. (TWA). It brought action seeking an injunction against TWA to require it to bargain with the plaintiff with respect to some fifty flight hostesses and stewards, not nationals of the United States or resident here, and who, based abroad, were employed by TWA solely in connection with TWA flights outside the continental United States and its possessions.

TWA admitted all the plaintiff's allegations. The plaintiff moved for judgment on the pleadings. The defendant filed a cross-motion for summary judgment. The district court granted defendant's cross-motion, dismissed the complaint and filed a learned opinion, reported at F. Supp.

As the district court pointed out in the opinion below, it is an accepted canon of construction that the coverage of a federal statute will not extend beyond our national boundaries unless such a legislative intent clearly appears. *Foley Bros. Inc.* v. *Falando*, 336 U.S. 281. The statute here involved demonstrates no such intent. Indeed, it discloses a contrary one. The Interstate Commerce Act (49 U.S.C. Chapter 1) is limited in its application to common carriers engaged in interstate and foreign transportation "but only in so far as such transportation * * * takes place

[1] 45 U. S. C. § 151 *et seq.* 45 U. S. C. § 151 provides: "The term 'carrier' includes any * * * carrier by railroad, subject to the Interstate Commerce Act * * * "

Title II of the Railway Labor Act, approved April 10, 1936, 45 U. S. C. §§ 181-188, extended the coverage of the Act so as to include (with exceptions not of moment here) common carriers by air and their employees. § 181 provides: "All of the provisions of Section 151 * * * are extended to and shall cover every common carrier by air engaged in interstate or foreign commerce * * * "

within the United States" (49 U.S.C. §§ 1(1)(a), 1(2)). The coverage of the Railway Labor Act as amended (see fn. 1), being dependent upon the coverage of the Interstate Commerce Act was therefore held by the National Mediation Board not to extend beyond the United States. This determination was upheld by the Court of Appeals of the District of Columbia. *Air Line Dispatchers Association* v. *National Mediation Board*, 189 F. 2d 685 (1951), *cert. denied*, 342 U.S. 849 (1951). Plaintiff, being certified for the purposes of the Railway Labor Act, may not represent foreign nationals, foreign-based exclusively employed in foreign areas. The Eighth Circuit is an agreement. *Air Line Stewards and Stewardesses Ass'n International* v. *Northwest Airlines*, 267 F. 2d 170 (8 Cir. 1959), *cert. denied*, 28 U.S. Law Week 3165 (1959).

Affirmed.